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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,102	10/23/2003	Thomas G. Dom		6587

7590 05/06/2005

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EXAMINER

LUBY, MATTHEW D

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 05/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/692,102

Applicant(s)

DOM, THOMAS G.

Examiner

Matt Luby

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 February 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to because in replacement Figure 2 the word "Wheel (7)" appears as "Wheel 7)". Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance. Applicant is requested to please note the underlined sentence above as the drawings submitted 02/09/05 were neither labeled "Replacement Sheet" or "New Sheet".

Specification

2. The substitute specification filed 02/09/05 has not been entered because it does not conform to 37 CFR 1.125(b) and (c) because: the amendment to paragraph 4 contains new matter. Therefore the same specification problems that were pointed out in the last office action still exist.

3. The incorporation of essential material in the specification by reference to a foreign application or patent, or to a publication (i.e., "Motorcycle Chassis Design") is improper. Applicant is required to amend the disclosure to include the material incorporated by reference. The amendment must be accompanied by an affidavit or declaration executed by the applicant, or a practitioner representing the applicant, stating that the amendatory material consists of the same material incorporated by reference in the referencing application. See *In re Hawkins*, 486 F.2d 569, 179 USPQ 157 (CCPA 1973); *In re Hawkins*, 486 F.2d 579, 179 USPQ 163 (CCPA 1973); and *In re Hawkins*, 486 F.2d 577, 179 USPQ 167 (CCPA 1973).

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1-4 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one

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skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 1 was amended at lines 11-12 to reflect a similar amendment to the specification. Since the substitute specification has not been entered this limitation fails to comply with the written description requirement.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

7. Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

8. Claim 1 recites the limitations "said forward pivot pin" and "said rear pivot pin axes" in lines 8-9. There is insufficient antecedent basis for this limitation in the claim.

9. Claim 1 recites the limitation "the distance between the rear pivots to be 2 to 3 times the distance between the forward pivots which allows an acceptable turning angle" in lines 11-12. This limitation is vague and indefinite because it is not clear how the phrase "which allows an acceptable turning angle" is related to the rest of the limitation, i.e., it is unclear if the distance between the forward pivots alone permits an acceptable turning angle or if it is the relationship between the distances between the rear pivots and the forward pivots that permits this turning angle. Furthermore, it is unclear what an acceptable turning angle comprises.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 1, as best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Edele in view of Fior (U.S. Pat. No. 4,388,978).

Edele discloses a steering and suspension system comprising a wheel (16) rotatably attached to an axle (shown by dotted lines in Figure 4), said axle rigidly attached to axle brackets at each end of said axle (axle is attached to 17, which is in turn attached to brackets, 44), said axle brackets containing pivot pins (42, as shown in Figures 4 and 7), said pivot pins arranged with axes that are perpendicular to the centerline of said axle (as illustrated in Figure 4), side rails (41) positioned along each side of said wheel (as illustrated in Figure 1), said side rails attached pivotally at the forward end to said axle brackets through said pivot pins with axes of said pivot pins perpendicular to longitudinal centerline of said side rails (illustrated in Figures 1 and 4, for example), said side rails attached pivotally at the rear end to rear rail brackets (38a, as shown in Figures 5 and 6), said rear rail brackets containing pivot pins (39), said second pivot pin having axes parallel to said first pivot pin axes so that movement of said side rails and said axle is in a plane that is perpendicular to the plane of rotation of said wheel (this is seen from comparing Figures 1, 2, 4 and 5), said rear rail brackets rigidly attached to each end of a rear rail (38a are rigidly attached to 38 since they

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welded extensions of 38, as shown in Figure 5), the length of said rear rail chosen to be large enough to allow acceptable steering lock during a turn (38 and 38a allows the wheel to turn an acceptable amount), said rear rail positioned behind said wheel (see Figure 1) and perpendicular to the vehicle longitudinal centerline (see Figure 1), said rear rail pivoted about a rear rail pivot pin (36) whose axis is perpendicular to the vehicle longitudinal centerline (compare Figures 1 and 5), said rear rail pivot pin attached pivotally at each end to frame brackets (attached pivotally to 46 by 45 and attached pivotally to 34 by 35), said frame brackets rigidly attached to vehicle frame (through the various mechanism shown in the Figures). Edele does not specifically disclose that a distance between rear pivots is 2-3 times the distance between the forward pivots. Fior discloses that a distance between rear pivots (21) is about 2-3 times the distance between forward pivots (17; shown in Figure) in order to reduce the variations of caster angle and variations of attitude of a front fork steering and suspension system on a cycle (col. 3, lines 7-12; i.e., this is the general problem solved by the invention of Fior and since the relative distances between the rear pivots, 21, and the front pivots, 17, are part of the invention of Fior, they help to solve this problem.) It would have been obvious to one of ordinary skill in the art at the time of the invention to provide that the distance between the rear pivots is 2-3 times that between the forward pivots, on the Edele device, as taught by Fior, in order to reduce the variations of attitude and caster angle of a front fork steering and suspension system on a cycle.

Allowable Subject Matter

12. Claims 2-4 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

13. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

15. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matt Luby whose telephone number is (571) 272-6648.

The examiner can normally be reached on Monday-Friday, 9:30 a.m. to 6:00 p.m..

17. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (571) 272-6612. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

18. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Matt Luby
Examiner
Art Unit 3611

M.I.
May 2, 2005